

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

ALBERT L. GRAY, Administrator, et al., :  
Plaintiffs, :  
 :  
vs. : CA 04-312L  
 :  
JEFFREY DERDERIAN, et al., :  
Defendants. :

**ORDER  
GRANTING IN PART  
JBL INCORPORATED'S MOTION  
FOR LIMITED DISCOVERY**

Before the court is the Motion for Limited Discovery (Document #235) ("Motion") of Defendant JBL Incorporated ("JBL"). Plaintiffs have filed an objection to the Motion. See Plaintiffs' Objection to Defendant JBL Inc.'s Motion for Limited Discovery (Document #252). The court conducted a hearing on the Motion on March 11, 2005.

Based on JBL's representation that "[t]his lawsuit was the first notice that [JBL] had that any of its speakers or amplifiers were on the premises of the Station Night Club," Memorandum of Law in Support of JBL Incorporated's Motion for Limited Discovery ("JBL Mem."), and that JBL "has attempted to ascertain, informally, the identity of the speaker or amplifier that may have been on the premises and has attempted, informally, to gain access to the speakers or amplifiers or their remains and/or component parts without success," id., the Motion is granted to the following extent:

1. Plaintiffs shall produce (or allow the inspection of) all records, reports, memoranda, or documents which indicate that a JBL speaker or amplifier was present on the premises of the Station Night Club at the time of the fire as alleged in the

complaint.<sup>1</sup>

2. Counsel for JBL, C. Russell Bengston ("Mr. Bengston"), shall be allowed to inspect and photograph the remains of the speaker(s) and/or amplifier(s) ("the remains"), which have been identified as such<sup>2</sup> and are in the Evidence Repository ("Warehouse"), subject to the following conditions:

A. The date and time of said inspection shall be mutually agreed upon between Mr. Bengston and Attorney Michael St. Pierre ("Mr. St. Pierre"), the attorney who appeared for Plaintiffs at the hearing on the Motion.

B. Notice of the time and date of the inspection shall be sent to all parties in the Station Fire litigation at least ten days prior to the date of the inspection.<sup>3</sup>

C. The inspection and/or photography of the remains shall be conducted in a manner which ensures that their condition is not altered or damaged.

D. JBL shall contribute its pro rata share of the cost of the Evidence Repository. The amount of such contribution shall be determined prior to the inspection by mutual agreement between Mr. Bengston and the attorneys and/or parties who have to date been paying the cost of the Evidence Repository.

In all other respects the Motion for Limited Discovery is

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<sup>1</sup> The court's intent is for Plaintiffs to produce such documents as are readily available to them. Plaintiffs are not required at this time to undertake an exhaustive search for responsive documents.


<sup>2</sup> The inspection is limited to the remains which have been identified as remains of a speaker and/or amplifier. This order does not authorize a search of the Evidence Repository ("Warehouse") for other remains which have not yet been identified as being a speaker and/or amplifier.

<sup>3</sup> Although notice of the inspection is to be given to all parties, attendance at the inspection shall be limited to Mr. Bengston and Mr. St. Pierre (and any necessary key custodian(s) of the Warehouse). If any other party desires to attend the inspection, such party shall file a motion explaining why such attendance is necessary. Upon the filing of such motion, the inspection shall be stayed until the court has ruled upon the motion.

DENIED.<sup>4</sup>

So Ordered.

ENTER:

  
\_\_\_\_\_  
DAVID L. MARTIN  
UNITED STATES MAGISTRATE JUDGE  
March 14, 2005

BY ORDER:

  
\_\_\_\_\_  
Deputy Clerk

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<sup>4</sup> To the extent that JBL's Request[s] for Production are not granted by this order, those requests are denied. JBL's Interrogatories, which were part of the Motion for Limited Discovery, were withdrawn by counsel for JBL at the hearing on March 11, 2005.